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ATTORNEYS FOR PROSPECTIVE DEFENDANT-INTERVENOR

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UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

SERVICE EMPLOYEES INTERNATIONAL UNION,  
 LOCAL 790,

Plaintiff,

v.

JOSEPH P. NORELLI, Individually, and in his  
 capacity as REGIONAL DIRECTOR, NATIONAL  
 LABOR RELATIONS BOARD, REGION 20; *et al.*,

Defendants.

CASE No. 3:07-cv-2766 PJH

**PROSPECTIVE DEFENDANT-  
 INTERVENOR'S MOTION TO  
 SHORTEN TIME AND SET HEARING  
 ON HIS MOTION FOR LEAVE TO  
 INTERVENE**

**HEARING DATE:  
 TIME:  
 COURTROOM OF JUDGE HAMILTON,  
 COURTROOM 3, 17TH FLOOR**

COMES NOW Prospective Defendant-Intervenor Stephen J. Burke, Jr. ("Burke"), by his undersigned counsel, and, pursuant to Local Rule 6-3, N.D.CAL., hereby moves the Court for an Order shortening the time for response and hearing on his Motion for Leave to Intervene (Clerk's Docket No. 11), as follows:

1. The reasons for Burke's instant Motion is the Court's determination to issue an Order to Show Cause (Clerk's Docket No. 18), setting hearing on Plaintiff's Motion for a Preliminary Injunction (Clerk's Docket No 2) for Wednesday, 27 June 2007, at 9:00 a.m. For the reasons set forth in his Motion (Clerk's Docket No. 11), Burke seeks to participate in all proceedings in this case,

1 including argument on Plaintiff's Motion for a Preliminary Injunction. Had Plaintiff's Motion been  
2 heard in the normal course of things, it could not have been heard before Wednesday, 11 July 2007, the  
3 date originally set for hearing on Burke's Motion for Leave to Intervene. Furthermore, it will serve the  
4 interests of judicial economy and the economy of the parties (particularly Burke, whose lead counsel is  
5 on the East Coast) to have the Motion for Leave to Intervene heard contemporaneously with the  
6 Motion for a Preliminary Injunction.

7         2. Plaintiff's counsel, Eric M. Borgerson, attempted to contact Burke's undersigned  
8 counsel ("Young") telephonically at approximately 2:30 p.m., P.D.T. (5:30 p.m., E.D.T.), on Thursday,  
9 31 May 2007, to discuss scheduling on the Motion for a Preliminary Injunction. As it was after  
10 business hours on the East Coast, Young had left for the day, and Mr. Borgerson left a detailed voice  
11 message. As Young was preparing a responsive e-mail, Mr. Borgerson called at approximately 10:15  
12 a.m., E.D.T. (7:15 a.m., P.D.T.) to discuss the matter. While no accord was reached, Young responded  
13 via e-mail at 10:28 a.m., E.D.T., suggesting, *inter alia*, that — if hearing on the Motion for a  
14 Preliminary Injunction were set for hearing on 27 June, as suggested by Mr. Borgerson — hearing on  
15 the Motion for Leave to Intervene should be set for the same date, and suggesting an expedited briefing  
16 schedule with Plaintiff's Opposition (if any) be filed on 13 June, and that Burke's Reply (if any) be  
17 filed on 20 June. Courtesy copies of the e-mail were forwarded to Defendants' counsel, who had  
18 previously consented to Burke's intervention (Clerk's Docket No. 11 at 3).. As of this writing,  
19 Plaintiff's counsel has not responded to the request.

20         3. As noted in his Opposition to the Motion for a Preliminary Injunction (Clerk's Docket  
21 No. 17) at 2, Prospective Defendant-Intervenor's instant action as frivolous and vexatious. However,  
22 while he is fully confident that the Defendants will adequately and competently vindicate their  
23 institutional interests, Burke seeks to participate fully in these proceedings. If his Motion for Leave to  
24 Intervene is not granted, Burke may not be able to participate in hearing on the Motion for a  
25 Preliminary Injunction. Furthermore, if Burke's Motion is not heard until its scheduled hearing date  
26 (11 July), his counsel will be burdened with additional transcontinental travel and expense.

27         4. Burke requests leave to intervene in the action as a Defendant to defend the National  
28 Labor Relations Board's decision to grant him the deauthorization election that he has long sought.

Defendants have stated that they do not oppose his Motion to Intervene. In contrast, Local 790's attorney, David Rosenfeld, informed Burke's co-counsel, Glenn M. Taubman, that his client opposes intervention, even though Taubman was served with all of the union's papers (presumably because the union recognized that Burke has a direct and substantial interest in the outcome of this case).

5. No previous time modifications have been sought regarding Burke's Motion for Leave to Intervene. The Court's Order to Show Cause (Clerk's Docket No. 18) effectively shortens the time for hearing on Plaintiff's Motion for a Preliminary Injunction (Clerk's Docket No. 2) which, if scheduled pursuant to Local Rules, could not have been heard before Wednesday, 11 July 2007, the date originally set for hearing on Burke's Motion for Leave to Intervene.

6. Since this case was reassigned, the Court has not yet issued a Scheduling Order. The requested time modification would therefore have no effect on the schedule for this case.

WHEREFORE, Prospective Defendant-Intervenor Stephen J. Burke, Jr., respectfully requests that the Court issue an Order advancing the date for hearing on his Motion for Leave to Intervene to Wednesday, 27 July 2007, at 9:00 a.m., and requiring that Plaintiff's Opposition be filed not later than 13 June 2007, and that Burke's Reply be filed not later than 20 June 2007.

DATED: 1 June 2007

Respectfully submitted,

/s/ W. James Young

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INTERVENOR

**CERTIFICATE OF SERVICE**

I, W. James Young, counsel for Prospective Defendant-Intervenor, hereby certify that I electronically filed with the Clerk of Court the foregoing **Prospective Defendant-Intervenor's Motion to Shorten Time and Set Hearing on His Motion for Leave to Intervene**, using the CM/ECF system which will send notification of such filing to Defendants' counsel, this 1st day of June, 2007.

/s/ W. James Young

W. JAMES YOUNG

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Friday, 1 June 2007, 18:55:10 PM